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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,711	12/11/2003	Matthew Spiro	29812-CON	8628

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EXAMINER

ALIMENTI, SUSAN C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,711

Applicant(s)

SPIRO ET AL.

Examiner

Susan C. Alimenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 33 and 35 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC §§ 102, 103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-8, 33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wigton et al. (US 6,145,243).

Wigton et al. (hereafter Wigton) discloses the claimed invention comprising a propane gas burner releasing hot carbon dioxide gas and moisture (Wigton, col.4, lns.38-40) through a vertically extending exhaust tube 44 having an outlet 48 that is open to the atmosphere.

Wigton's device further comprises an insect trap assembly comprising a insect trap/housing 34, communicated to inlet 36 operable to draw insects into the housing via vacuum generator 38.

The insect assembly, comprising parts 34, and 36, is laterally offset from and entirely exterior from exhaust tube 44.

Regarding claim 3, 33 and 35 the insect trap assembly is supported from and exterior of exhaust tube 44 via connection 46.

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Regarding claim 7, a ground-engaging stand 12, 20, supports the entire system.

Regarding claim 8, the sidewall of housing 36, and connector 46 are considered to be heating panels.

3. Further, if one were to argue that Wigton's insect trap assembly and the exhaust tube are not "positioned offset from and entirely exteriorly of one another," such would only involve mere rearrangement of parts, and would not alter the scope or spirit of Wigton's inventive concept. It would have been obvious to one having ordinary skill in the art at the time the invention was made to offset Wigton's intake tube 30 from carbon exhaust tube 44, since it has been held that rearranging of parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Allowable Subject Matter

4. The indicated allowability of claim 33 is withdrawn, as the Wigton reference has been reexamined, and is considered to be readable on said claim, as described in the above rejection.

5. Claim 34 allowed.

6. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 29 July 2005 have been fully considered but they are not persuasive. Applicant contends that the amendment to claim one, wherein the word "entirely"

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was added, defines the claim over the prior art of Wigton. The examiner respectfully disagrees, and points out that claim 1 recites the insect trap comprising a housing and inlet. As discussed above, Wigton's housing 34 and inlet 36 are readable on the "insect trap assembly," and said structures are offset from and entirely exterior to the exhaust tube 44.

Further, the allowability of claim 33 has been withdrawn because upon reexamination of the aforementioned reference, it is clear that the housing 34 and inlet 36 of the insect trap assembly are in fact mounted to and exterior of the exhaust tube 44 at connection 46.

In conclusion, for the above reasons the examiner maintains the rejection of the respective claims.

Conclusion

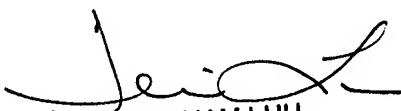
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan C. Alimenti



TERI PHAM LUU
SUPERVISORY
PRIMARY EXAMINER